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Am. J. Environ. Health 1981, 22(1), 1-10

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

AZCO BIOTECH INC., a Nevada Corporation; and J. ADAMS, an individual.

19 || Plaintiffs,

20 | VS.

21 STEVEN GORDON, an individual;  
22 JINGYUE JU, an individual; JERZY  
23 OLEJNIK, an individual; and  
INTELLIGENT BIO-SYSTEMS, INC.,  
a Delaware Corporation; and DOES 1-  
24 50, inclusive,

25 || Defendants.

## 26 | AND RELATED COUNTER-CLAIMS.

Case No. 3:12-cv-02599-BEN-DHB  
**IBS's RULE 26(a)(3) DISCLOSURES**

## The Honorable Roger Benitez

Complaint Filed: October 24, 2012

Pretrial Conference: September 14, 2015  
Conference Time: 10:30 am  
Courtroom 5A

1 Pursuant to Federal Rule of Civil Procedure 26(a)(3), and the Court's July 13,  
 2 2015 Scheduling Order, IBS submits its pretrial disclosures as follows:

3 **I. WITNESSES**

4 Pursuant to F.R.C.P. 26(a)(3)(A)(i), IBS sets forth the following names and  
 5 addresses of all prospective witnesses, except impeaching witnesses. The witnesses  
 6 whom IBS expects to present at trial are marked in bold font, and the witnesses IBS  
 7 may call if the need arises are not marked in bold. IBS reserves the right to call any  
 8 witnesses listed by Plaintiffs. IBS reserves the right to supplement or amend its  
 9 witness list through and including the time of trial.

<u>Name</u>	<u>Address and Telephone Number</u>
<b>Dr. Steven Gordon</b>	<b>25 Rolling Lane</b> <b>Weston, MA 02593</b> <b>781-354-3354</b> <i>Please contact through counsel for IBS</i>
<b>Dr. Jerzy Olejnik</b>	<b>Intelligent Bio-Systems, Inc.</b> <b>35 Gatehouse Drive</b> <b>Waltham, MA 02451</b> <b>617-466-8050</b> <i>Please contact through counsel for IBS</i>
<b>Dr. Peter Urbitsch</b>	<b>QIAGEN GmbH</b> <b>QIAGEN Strasse 1</b> <b>40724 Hilden</b> <b>011-49-02103-29-0</b> <i>Please contact through counsel for IBS</i>
Dr. Bettina Haedrich <i>By deposition</i>	QIAGEN GmbH QIAGEN Strasse 1 40724 Hilden 011-49-02103-29-0 <i>Please contact through counsel for IBS</i>

1	Richard Randazzo <i>By deposition</i>	Information in possession of Azco
2	Marianne Varner	Information in possession of Azco
3	Teresa Sacramento	Information in possession of Azco
4	J Adams	Information in possession of Azco
5	Quanlai Song	Information in possession of Azco
6		
7		
8		
9		

## 10            II. DESIGNATION OF DEPOSITION TESTIMONY

11            Pursuant to F.R.C.P. 26(a)(3)(A)(ii), IBS reserves the right to present the  
 12 deposition testimony of Richard Randazzo and Bettina Haedrich.

## 13            III. EXHIBITS

14            Pursuant to F.R.C.P. 26(a)(3)(A)(iii), IBS lists the exhibits that it intends to use  
 15 at trial, other than for impeachment. IBS expects to offer all of these exhibits. Where  
 16 an exhibit is described as an email, the exhibit includes all attachments to that email.  
 17 IBS reserves the right to supplement or amend its exhibit list through and including  
 18 the time of trial, and to utilize additional documents as necessary during cross  
 19 examination. IBS further reserves the right to use any admissions from pleadings,  
 20 briefs, motions, discovery responses, other documents filed, and exhibits thereto.

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
22            A			Email from Steve Gordon to J 23            Adams on March 7, 2011, 24            stamped AZCO-001805—1807 25 26

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
B			Email from Steve Gordon to J Adams, among others, on March 8, 2011, stamped AZCO-001801—1804
C			Email from J Adams to Steve Gordon on March 9, 2011, stamped IBS_0000563—566
D			Email from J Adams to Steve Gordon, among others, on March 11, 2011, with attachments, stamped IBS_0000543—553
E			Email from Steve Gordon to J Adams and Jerzy Olejnik on March 16, 2011, stamped IBS_0001601—1605
F			Email from Steve Gordon to J Adams, among others, on March 24, 2011, with attachment, stamped IBS_0001583—1589
G			Redline of Term Sheet with Steve Gordon's changes, stamped AZCO-000374—378
H			Email from J Adams to Steve Gordon, among others, on March 25, 2011, stamped IBS_0000513

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
I			Email from Steve Gordon to Teresa Sacramento on May 25, 2011, stamped IBS_0003540
J			Email from J Adams to Steve Gordon on June 8, 2011, stamped IBS_0000153—156
K			Email from Steve Gordon to J Adams on July 18, 2011, with attachment, stamped IBS_0008862—8886
L			Email from J Adams to Steve Gordon on July 23, 2011, stamped IBS_0007012—7015
M			Email from J Adams to Jerzy Olejnik on July 29, 2011, with attachment, stamped IBS_0010575—578
N			Email from Steve Gordon to Julia Karow on August 3, 2011, stamped IBS_0008817—8818
O			August 17, 2011 Purchase Order from Theragen to Azco for one Max-Seq Genome Sequencer, stamped IBS_0006832—6833

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
P			August 26, 2011 Purchase Order from Azco Biotech to IBS for one Max-Seq Genome Sequencer, stamped IBS_0006863
Q			August 26, 2011 Invoice from IBS to Azco for 50% down payment for the Max Seq, stamped IBS_0006866
R			Email from J Adams to Steve Gordon and Richard Randazzo on September 21, 2011, stamped IBS_0006739—6740
S			Email from J Adams to Steve Gordon, among others, on October 17, 2011, with attachment, stamped IBS_0017339—17340
T			Email from J Adams to Steve Gordon and Richard Randazzo on December 16, 2011, with attachment stamped IBS_0006076—6109

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
U			Email from J Adams to Steve Gordon on December 28, 2011, stamped IBS_0006012—6014
V			Email from Steve Gordon to Jerzy Olejnik on December 30, 2011, stamped IBS_0001887—1889
W			January 19, 2012 Invoice for Final Payment, stamped AZCO-000132
X			January 27, 2012 Quotation from IBS to the University of New Mexico for an early access MINI sequencing instrument, stamped IBS_0018182—18184
Y			January 30, 2012 purchase order from the University of New Mexico to IBS for an early access MINI sequencing instrument, stamped IBS_0018185—18191
Z			Email from Rich Randazzo to Steve Gordon on February 2, 2012, stamped IBS_0014443

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
AA			Email from Steve Gordon to J Adams on February 6, 2012, stamped IBS_0008083—8102
AB			Email from Jerzy Olejnik to Steve Gordon on March 2, 2012, with attachment, stamped IBS_0005540—5543
AC			Email from J Adams to Steve Gordon, among others, on March 3, 2012, with attachment, stamped IBS_0000876—897
AD			Email from J Adams to Steve Gordon, among others, on March 20, 2012, with attachment, stamped IBS_0005475—5477
AE			Presentation given by Steve Gordon at the ABRF Conference on March 23, 2012, produced natively as IBS_0011290 and previously marked as Azco's Summary Judgment Exhibit 22
AF			Email from Bernadette Toner to Steve Gordon on March 26, 2012, stamped IBS_0014147

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
AG			March 27, 2012 article by Bernadette Toner about the ABRF Conference, previously marked as part of Azco's Summary Judgment Exhibit 57
AH			Email from Austen Heinz to Steve Gordon and J Adams on April 4, 2012, with attachment, stamped IBS_0005198—5200
AI			Email from Marianne Varner to Teresa Sacramento on April 23, 2012, stamped AZCO-000268—272
AJ			Email from Teresa Sacramento to Steve Gordon, among others, on April 23, 2012, with attachment, stamped IBS_0005107—5108
AK			April 26, 2012 Invoice from IBS to Azco for down payment, stamped AZCO-001180
AL			Email from Steve Gordon to J Adams and Jerzy Olejnik on May 18, 2012, stamped AZCO-000695—696

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
AM			Email from J Adams to Steve Gordon and Richard Randazzo on June 18, 2012, with attachment, stamped IBS_0004544—4547
AN			Email from Richard Randazzo to Jerzy Olejnik on June 19, 2012, stamped IBS_0010284
AO			Email from Steve Gordon to J Adams on June 19, 2012, stamped AZCO-000688—689
AP			Email from Dirk Loeffert to Steve Gordon, among others, on July 13, 2012, stamped IBS_0007309
AQ			Email from J Adams to Steve Gordon, among others, on July 17, 2012, stamped IBS_0007290—7291
AR			Email from Dirk Loeffert to Steve Gordon and Bettina Haedrich on July 18, 2012, stamped IBS_0007285—7287

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
AS			Email from J Adams to Steve Gordon, among others, on July 26, 2012, stamped IBS_0007268—7269
AT			Email from Steven Gordon to J Adams on July 26, 2012, with attachment, stamped IBS_0017471—17472
AU			Email from J Adams to Steve Gordon, among others, on July 27, 2012, stamped IBS_0007237—7238
AV			Email from Steve Gordon to J Adams, among others, on August 16, 2012, stamped AZCO-000607—620
AW			Purchase Order from Azco to IBS for MINI-20, with handwritten notes dated September 7, 2012, stamped AZCO-000310

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
AX			Azco's October 30, 2012 Cross-Complaint in <i>Azco Biotech Inc. v. Kollmorgen Corp.</i> , Case No. 37-2012-00057297 (San Diego Superior Court)
AY			Email from J Adams to Jong Bhak, Austin Heinz, and Thomas David Kumar on December 7, 2012, stamped AZCO-000879
AZ			Email from J Adams to Steve Gordon, among others, on December 7, 2012, stamped AZCO-000396
BA			Email from Steve Gordon to J Adams, among others, on December 10, 2012, stamped AZCO-000386
BB			Email from Rick Kamps to Azco on November 11, 2013, stamped AZCO-001823
BC			Email from Banyai Krisztian to Azco on November 20, 2013, stamped AZCO-001824

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
BD			Email from Moore Greens to J Adams on December 18, 2013, stamped AZCO-001825—1826
BE			Email from Amir Samadi to Azco on March 4, 2014, stamped AZCO-001829
BF			Email from J Adams to Steve Gordon on March 11, 2014, stamped AZCO-001830
BG			Email from J Adams to Steve Gordon on April 17, 2014, stamped AZCO-001827
BH			Email from Mohannad Yacoub to Azco on May 4, 2014, stamped AZCO-001828.
BI			Email from J Adams to Steve Gordon on September 2, 2014, forwarding contact from customer asking about IBS products via Azco's website (not produced)

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	BJ		December 1, 2014 screenshot of the Max-Seq Genome Sequencer on Azco's website, previously marked as IBS's Summary Judgment Exhibit 22
	BK		December 1, 2014 screenshot of the MINI-20 DNA Sequencer on Azco's website, previously marked as IBS's Summary Judgment Exhibit 23
	BL		Azco Biotech Inc. Profit & Loss by Class, January through December 2009, stamped AZCO-001861—001864
	BM		Azco Biotech Inc. Profit & Loss by Class, January through December 2010, stamped AZCO-001850—001852
	BN		Plaintiffs' Response to Defendants' First Request for Production of Documents and Electronically Stored Information

<u>Exhibit No.</u>	<u>Date Marked</u>	<u>Date Admitted</u>	<u>Description</u>
BO			Plaintiffs Azco and J Adams' Responses to Defendants' Second Request for Production of Documents and Electronically Stored Information
BP			Plaintiffs Azco and J Adams' Responses to Defendants' First Set of Interrogatories (Nos. 1-15)
BQ			Plaintiffs Azco and J Adams' Responses to Defendants' First Set of Requests for Admission
BR			Deposition Transcript of J Adams
BS			Deposition Transcript of Marianne Varner
BT			Deposition Transcript of Teresa Sacramento
BU			Deposition Transcript of Brian Buss
BV			Deposition Transcript of Quanlai Song

1 Dated: August 17, 2015

2  
3 MINTZ LEVIN COHN FERRIS GLOVSKY  
4 AND POPEO PC  
5  
6

7 By *s/Justin S. Nahama*  
8 Justin S. Nahama, Esq.  
9

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27 *Attorneys for Defendants*  
28

**CERTIFICATE OF SERVICE**

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of San Diego, State of California, and am not a party to the above-entitled action.

On August 17, 2015, I filed a copy of the following document(s):

## **IBS's RULE 26(a)(3) DISCLOSURES**

by electronically filing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Executed on August 17, 2015, at San Diego, California. I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

s/Justin Nahama  
Justin Nahama